

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2007-286-WS - ORDER NO. 2008-269

APRIL 25, 2008

IN RE:	Application of Utilities Services of South	)	ORDER APPROVING
	Carolina, Inc. for Adjustment of Rates and	)	SURETY BOND
	Charges and Modifications to Certain Terms	)	
	and Conditions for the Provision of Water and	)	
	Sewer Service	)	

INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Motion for Issuance of an Order Approving Bond (“the Motion”) filed by Utilities Services of South Carolina, Inc. (“USSC” or “the utility”). Having examined the utility’s motion and supporting materials and determined that the surety selected by the utility and the proposed amount of the bond is in accordance with the requirements of the applicable statute, we have no choice but to approve the bond. Under South Carolina law, the utility may, notwithstanding this Commission’s order rejecting its petition for rate relief, implement the proposed rate increases during the pendency of its appeal if it posts sufficient bond in accordance S.C. Code Ann. §58-5-240(D). Pursuant to this subsection, if our order denying the proposed rate relief is upheld on appeal, the utility will be required to refund the additional funds collected during the pendency of appeal with interest accrued at the rate of twelve percent per annum.

### SUMMARY OF THE UNDERLYING RATE CASE

On August 6, 2007, USSC filed an Application seeking approval of a new schedule of rates and charges for water and sewer services. The Application sought an increase in annual service revenues of \$1,398,025. The Commission held an evidentiary hearing on December 13, 2007. The utility and the South Carolina Office of Regulatory Staff thereafter each submitted proposed orders which, if approved, would bring about rate increases resulting in additional revenues of \$772,965. On February 11, 2008, in Order No. 2008-96, the Commission denied the proposed rate relief and dismissed USSC's petition. According to USSC, it received this Order on February 12, 2008, and on March 3, 2008, USSC filed a Petition for Rehearing or Reconsideration with this Commission. On April 1, 2008, this Commission entered a Directive denying the utility's Motion for Reconsideration with regard to Order No. 2008-96. The Order implementing the terms of the April 1, 2008 directive has not been issued as of this date.

### TERMS AND CONDITIONS OF THE PROPOSED BOND

USSC requests that the Commission approve a bond pursuant to S.C. Code Ann. Section 58-5-240(D) (Supp. 2007) in the amount of \$772,965, pending issuance of the order on the Petition for Rehearing or Reconsideration and any subsequent appeal. The utility furnished a proposed bond form to be executed by a surety company authorized to do business in South Carolina. According to USSC, the \$772,965 figure represents the additional annual revenue which USSC would be entitled to earn if the Commission had approved the application with the adjustments and return on equity reflected in USSC's proposed Order. USSC submits that, based upon the additional amount of revenues which

would be generated had the Commission approved the requested increase with the agreed upon adjustments over a period of one year, a surety bond in the amount proposed is sufficient. The utility therefore requests that the Commission approve its proposed bond form. USSC further requests that the Commission allow USSC to make any refunds required (if the rates put into effect are finally determined to be excessive) by crediting existing customers' bills. The utility submits that the issuance of an order approving its bond is appropriate and warranted in that it protects USSC's right to collect rates under bond under the statute, but at the same time poses no risk of harm to customers, since any rates collected under bond will be subject to refund with interest in the event USSC's subsequent appeal is unsuccessful.

#### THE APPLICABLE STATUTE

In Section 1 of Act No. 138 of 1983, the South Carolina General Assembly substantially rewrote Section 58-5-240 of the South Carolina Code. The amendment to Section 58-5-240 provided in part that if the Commission rejects a utility's application for rate relief, the utility may nevertheless choose to impose a rate increase while the utility seeks reconsideration by the Commission of the matter and/or appeal of the Commission's denial of rate relief before the Supreme Court of South Carolina, so long as the utility provides an appropriate surety bond in an amount sufficient to ensure repayment of any overcollection, with interest to be assessed at twelve percent per annum. The Commission is without discretion to prohibit the utility from imposing its proposed rates under an appropriate bond. The statute, as amended by the General Assembly in 1983, allows the utility to impose its proposed rates under bond as a matter

of right where the utility demonstrates that the surety and the bond are sufficient to ensure that the ratepayers will be reimbursed with interest for overcharges in the event the utility's appeal is ultimately unsuccessful. Based on the information presented to us, the proposed surety and the bond in the amount of \$772,965 are appropriate and must be approved as proposed, with one stipulation. The bond form submitted addresses the customers of Carolina Water Service, Inc., as opposed to the customers of USSC. The utility shall modify the bond form to address the customers of USSC as is proper under the circumstances.

With regard to the request that USSC be allowed to credit existing customers' bills if refunds are required, we would note that the Office of Regulatory Staff has filed an objection to such a procedure, and the utility has replied to it. As the appeal process in this case is only beginning, and no refunds are yet due, we hold any ruling on this issue in abeyance at this time. If refunds become necessary, we will rule on the proper methodology at a later time.

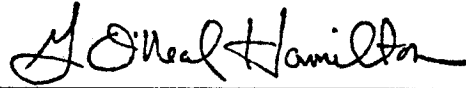
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This Order shall remain in full force and effect until further order of the Commission.

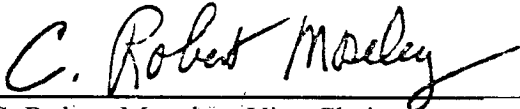
BY ORDER OF THE COMMISSION:



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G. O'Neal Hamilton, Chairman

ATTEST:



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C. Robert Moseley, Vice Chairman

(SEAL)